

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:17-cv-00226-RJC-DSC**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**TROY A. LAMPKIN and BEST RATE TREE
& LANDSCAPING, INC.,**

Defendants.

Order

THIS MATTER is before the Court on the parties' Joint Motion for a Modified Consent Injunction (Doc. No. 14). That motion asks the Court to extend the injunctive relief that it previously granted. Upon consideration of the motion, the entire record in this case, and for good cause shown, the Court **ORDERS** as follows:

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the parties and the subject matter of this case.
2. Best Rate Tree & Landscaping, Inc. and Troy A. Lampkin have violated and continue to violate 26 U.S.C. §§ 3102, 3111, 3301, 3402, 6011(a), 6302, and 6157 by failing to timely file their federal employment (Form 941) and unemployment (Form 940) tax returns as required by law; failing to collect and pay over to the Internal Revenue Service the full amounts of the federal employment and unemployment taxes due and owing; and failing to make timely employment tax deposits as required by law.
3. The United States is entitled to injunctive relief under the traditional equitable principles.
4. The United States lacks an adequate remedy at law because the Defendants have evaded the United States' previous collection efforts.

5. The United States will suffer irreparable harm without an injunction because of the Defendants' ever-increasing federal tax liabilities.
6. The injury to the United States outweighs any potential injury to the Defendants.
7. An injunction will serve the public interest.
8. An injunction is necessary or appropriate for the enforcement of the internal revenue laws and is therefore appropriate under 26 U.S.C. § 7402(a).

ORDER AND INJUNCTION

Upon the consent of the United States of America and the Defendants, Best Rate Tree & Landscaping, Inc. and Troy A. Lampkin, and in accordance with 26 U.S.C. § 7402(a) and the Court's equitable powers, the Court **AMENDS** its earlier injunction (Doc. No. 5). Further, the Court **ORDERS** that Best Rate Tree & Landscaping, Inc. and Troy A. Lampkin, for a period of ten years, take all of the following actions:

1. Timely pay to the Internal Revenue Service all employment and unemployment taxes and make all federal tax deposits as required by law.
2. Provide proof to the Internal Revenue Service each quarter that the required income and employment taxes were paid to the Internal Revenue Service. Proof of payment shall be made by signing a declaration to that effect and filing such declaration with the Court on the docket.
3. Timely pay outstanding federal employment and unemployment tax liabilities due on each return required to be filed.
4. Retain the services of an independent accountant to prepare the company's employment and unemployment tax returns and ensure the timely filing of those returns and payment of taxes owed.

5. Refrain from assigning any property or making any disbursements until all income and employment taxes required to be withheld from their employees' wages are paid.
6. Give written notification of any future employment tax conduct with respect to any new or presently owned interest, including notifying the Revenue Officer of any new businesses that they may come to own, manage, or work for.

Further, by signing the joint motion seeking the entry of this order, the Defendants acknowledge that they have been served with notice of this order and are aware of its contents, and agree not to contest such knowledge in any future proceedings.

Any failure by Best Rate Tree & Landscaping, Inc. or Troy A. Lampkin to comply with this order shall be deemed in contempt of this Court and may subject them to sanctions, including monetary penalties and incarceration. The Court expressly forewarns the Defendants that any further violation of this Court's orders risks the possibility that the Court will further expand the injunction to bar the Defendants from earning income from sources not subject to federal tax withholding by a third party, and the appointment of a receiver for Best Rate Tree & Landscaping, Inc.

The parties' Joint Motion for a Modified Consent Injunction (Doc. No. 14) is **GRANTED**. The United States' Motion to Show Cause and Modify the Injunction (Doc. No. 8) is **DENIED** as moot.

SO ORDERED.

Signed: November 22, 2022



Robert J. Conrad, Jr.
United States District Judge

